

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/276,207 03/25/99 CARROLL BULLARD W 10360/009001

TM02/0703

DENIS G MALONEY
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON MA 02110-2804

EXAMINER

AKER S B
ART UNIT PAPER NUMBER2164
DATE MAILED:

07/03/01 8

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/276,207	Applicant(s) Bullard
	Examiner Geoffrey Akers	Art Unit 2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Jun 8, 2001
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

Art Unit: 2164

DETAILED ACTION

Response to Amendment

1. The text of those sections of Title 35 US Code not included herein can be found in a prior Office action(see Serial No: 09/276207). The text of those sections of Title 35 US Code not otherwise provided in a prior Office action will be included here where appropriate.
2. This action is responsive to the amendment dated 6/20/01(Paper # 7).
3. Applicant amended claims 1-7. No new claims were added. None were deleted.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-3 are rejected under 35 USC 102(e) as unpatentable over Egendorf(US Pat. No: 5,794,221).

6.(AMENDED) As per claim 1 Egendorf teaches a computer implemented method(col 4 lines 40-56) comprising providing a subscriber with a service having a first (customer) characteristic, observing at the network(col 1 lines 4-6)(col 1 line 54-col 2 line 8), that the provided service to the subscriber has a second characteristic of vendor(col 2 lines 11-27) and billing the subscriber for the service having the second characteristic of the vendor rather than for the service having the

Art Unit: 2164

first characteristic(col 2 line 11-19)(col 2 lines 28-36)(col 4 line 56-col 5 line 10)(col 6 lines 36-46) and billing the subscriber for the secure, cost effective secure(col 2 lines 42-50)networking transmission service having the second characteristic with the vendor rather than the service having the first characteristic(Fig 2/16)(col 4 line 57-col 5 line 10).

7.(AMENDED) As per claim 2, Egendorf teaches the method of claim 1 wherein observing further comprises determining at the network that resources are not available for providing the first level of service(col 2 line 12) and, in response to said determination, providing a second level of secure networking transmission service(col 5 lines 43-60)(col 2 lines 11-50).

8.(AMENDED) As per claim 3, Egendorf teaches the method of claim 2 wherein providing the second level(col 2 lines 11-27) of service further comprises reassessing and redefining the deployed networking transmission service(Fig 1)(Fig 3)(col 5 lines 50-55)(col 7 lines 1-10).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-5 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 5,794,221) and further in view of Hilt(US Pat. No: 5,465,206).

Art Unit: 2164

11.(AMENDED) As per claim 4, Hilt teaches the method of claim 3 wherein the process observes whether reassessment and redefining of the deployed networking transmission policy was successful(col 13 line 67-col 14 line 31)(col 15 lines 2-55)(col 22 lines 2-17)(Fig 12/158/124). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the above. The motivation is to teach a network for aggregating data for subsequent use.

12.(AMENDED) As per claim 5, Hilt teaches the method of claim 1 further comprising determining whether there has been packet loss(col 16 line 57-col 17 line 13) and wherein determining packet loss includes deploying a packet detector monitor in the network to generate network accounting records that can be used to determine packet loss(Fig 6/160). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the above. The motivation is to teach a network for aggregating data for subsequent use.

13. Claims 6-10 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 5,794,221) and further in view of Melen(US Pat. No: 5,956,391).

14.(AMENDED) As per claim 6, Melen teaches the method of claim 1 wherein the providing further comprises establishing a differentiate services policy that is decomposed into a collection of configurations and deployed in a network(col 6 line 26-col 7 line 8).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of

Art Unit: 2164

Melen to teach the above. The motivation is to teach a network for aggregating data for subsequent use.

15.(AMENDED) As per claim 7, Melen teaches the method of claim 1 wherein the providing further comprises deploying the configurations to a collection of routers(Fig 1/6/10) or switches(Fig 1/4) that the customer would have access to in the network(Fig 1/1/2). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is to teach a network for aggregating quality data for subsequent use from a plurality of routers.

16. As per claim 8, Melen teaches the method of claim 1 wherein observing observes a large number of network flows(Fig 2)(Fig 3).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is to teach a network for monitoring the quantity of data.

17. As per claim 9, Melen teaches the method of claim 8 wherein observing further comprises using an accounting process that produces information at a granularity level at which the policies are actually deployed(Fig 3)(col 9 lines 33-49). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is to teach an accounting process from which to develop policy on information use.

18. As per claim 10, Melen teaches the method of claim 9 wherein the policies are deployed at source and destination IP address, protocol and/or destination port level(col 4 line 53-col 5 line 35).It would have been obvious to one skilled in the art at the time of the invention to combine

Art Unit: 2164

Egendorf in view of Melen to teach the above. The motivation is to teach a network for establishing data policies at source and destination levels in the throughput process.

Response to Arguments

19. Applicant's arguments filed 6/8/01 have been fully considered but they are not persuasive. Egendorf's internet billing method is convenient for both the vendor and customer(col 1 lines 1-3) relating to the quality of service conducted on the Internet. Moreover, Egendorf's invention provides network security(and consequent quality)service for the customer(col 2 lines 42-50). Customer's also have prearranged access to the Internet through the service of the Internet access provider(col 2 line 51-65).No actual account numbers are transmitted over the Internet providing the customer with a level of account access immunity and affordding a better level of service. Dual arrangements are established between the customer/provider and the provider/vendor(col 3 lines 18-65).The provider is able to monitor the data being sent over the Internet throught the provider's equipment to enable it to be aware that customer has authorized a transaction(col 4 lines 11-22).This further increases the qulity of service through improved accyuracy in the transactions promoted by this monitoring procedure. Furthermore, the billing account not even need be with the provider but at a third party, which moreso minimizes error by the provider(col 6 lines 37-46) and enhances service in multiple accounts(col 6 lines 52-57).Additionally, the vendor account can be an account with the provider or with a third party too, increasing accuracy by independent verification procedures(col 7 lines 1-4). These third parties are able to ascertain if deployment network policy is successful.

Art Unit: 2164

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any questions regarding this communication may be directed to the examiner, Dr. Geoffrey Akers, P.E. who can be telephoned at (703)-306-5844 between the hours of 6:30 AM and 5:00 PM Monday through Friday. If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Mr. Vincent Millin, may be contacted at (703)-308-1065.

GRA

June 26, 2001


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2183